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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,411	07/16/2003	Richard Craig Estey	UGAM	9611
5251	7590	03/09/2006	EXAMINER	
SHOOK, HARDY & BACON LLP INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BLVD KANSAS CITY,, MO 64108-2613			HSU, RYAN	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/620,411	Applicant(s) ESTEY, RICHARD CRAIG	
	Examiner Ryan Hsu	Art Unit 3714	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: claim 1 does not form a complete sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 rejected under 35 U.S.C. 103(a) as being unpatentable over Boushy et al. and further in view of Bentz (“Affiliate Marketing: does It Work? Should You Get An Affiliate Program? Is It Worth It?”).

Regarding claim 1, Boushy teaches a method of operating a game system that comprises of a player tracking system (PTS). Boushy’s PTS system stores player profiles in its database after establishing that the player meets a predetermined criterion set by the casino. Additionally, Boushy teaches of populating and storing a player profile in a PTS database corresponding to the received information from the recruited player. Boushy’s system then tracks and records each player’s gaming activity, which is collected by the PTS database and associated with each player’s profile information. Boushy’s player tracking system also offers ongoing benefits typically in the form of “comps” to the player based on the gaming activity of the player. Furthermore, Boushy provides the complimentary gifts and benefits in order to provide a more enjoyable experience and to provide the player’s with an incentive to join the system in exchange

the casino's ability to monitor and track their play of gambling games. Boushy's player tracking system also incorporates a marketing system (*see Fig. 3 and the related description thereof*) to provide cross-promotional incentives and comps to the player. However, Boushy's teachings are directed specifically towards the operation of a casino management system and does not incorporate teachings of the techniques found with regard to marketing and advertising programs that are offered to a player. Therefore Boushy is silent with regard to the implementation of a differentiation with a sponsoring player or a recruited player and creating associations between players identifying the recruited player and sponsored player relationships.

The method disclosed by the applicant is a commonly known practice in the marketing and advertising markets and is better known as a multi-tiered affiliate advertising and marketing program. Bentz teaches in an article with regard to affiliate programs explaining the benefits of how these systems can improve the revenue and success of a product (*see Bentz, "what makes an affiliate program so powerful?"*). These systems typically allow for an affiliate (*ie: recruited player*) to referred a friend to a product (*ie: sponsored player*) and associate the two accounts. As taught by Bentz, this provides the advantage of receiving a percentage of the profits or commissions from the associated affiliates (*ie: sponsored players*). One would be motivated to incorporate this type of advertising system into the advertising system of Boushy in order to promote the sales and provide a incentive to users of the system as taught by Bentz (*see Bentz "Affiliate Marketing: Does It Work?"*). Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to implement a multi-tiered affiliate program into the advertising system of Boushy to be used in conjunction with the player tracking system to promote revenue of the casino.

Regarding claim 2, the Examiner takes OFFICIAL NOTICE that manual bookkeeping and player tracking are antiquated variants of player tracking system are old and well known in the art at the time of the invention.

Claims 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boushy et al. and Bentz as applied to claims above, and further in view of Messer et al. (US 2004/00111381 A1).

Regarding claims 3-5, Boushy et al. teaches a player tracking system that incorporates the use of monitoring and tracking a players operation in a casino. Additionally, Boushy teaches the use of a central patron database that enters and monitors new and existing player accounts. These accounts are updated with information relating to a player's gaming activity and monitored to see if they are eligible for complimentary gifts or benefits. Furthermore, Boushy's system is linked to the advertising and marketing divisions of the casino however is silent with regards to different embodiments of marketing/advertising methods in the marketing/advertising arts. Bentz teaches the basics of a multi-tiered affiliate method and teaches the advantages of incorporating such a method to improve the revenue of a product (*ie: the casino*). However, Boushy and Bentz are silent with regard to the operations that a system might implement when using an affiliate program in a computer system.

Messer et al. in an analogous computer system patent teach the implementation of an affiliate program into a communication network.

Regarding claim 3-5, Messer teaches a method comprising a system that allows a user (*ie: player*) to interact between the merchant (*ie: recruited member*) and a vendor (*ie: sponsored member*) to develop a hierarchical relationship (*see merchant (1-3)[610, 620, 630] and vendor*

(1-3)[310,320,330] of Fig. 1 and the related description thereof), wherein the hierarchical relationship contains many levels of direct and indirectly sponsored vendors (*ie: players*) (*see 3rd party ad source [400]*).

Regarding claims 6-7, Messer teaches a method wherein the complimentary benefits (*refer to Boushy above*) are based on the sponsoring hierarchy based on a selectable number of levels in the sponsoring hierarchy (*ie: merchant and vendor relationship with regard to commissions, see paragraph [0004-0006]*).

Regarding claim 9-10, Messer teaches a method wherein the offer of complimentary benefits for a member's sponsored hierarchy are selectable based on the nature of the qualified activity. Additionally, an incentive is made to new vendors who enter into the multi-tiered affiliate network (*ie: the commissions are generated as added into the network*) (*see [0038-0054]*).

Regarding claim 12-13, Messer teaches a method wherein the commission (*ie: complimentary benefits*) are associated with qualified referrals (*ie: gaming activity*) participated in by direct and indirect recruits beyond a minimum volume, wherein a recruit's gaming activity volume is a running sum of the value of all qualified referrals (*ie: gaming activity*) (*see paragraph [0004-0006], [0022]*).

Regarding claim 14-16, Messer teaches populating the vendors (*ie: sponsoring member*) of an existing vendors profile with information identifying a sponsoring vendor (*ie: member*). Additionally, the system is adaptable to change the sponsoring member to identify a different member (*see [0007-0009]*).

Messer also teaches that one would be motivated to use this type of multi-tier affiliated system to allow for an enhanced product access to users. Therefore it would have been obvious one of ordinary skill in the art at the time of the invention incorporate the system taught by Messer with Boushy and Bentz to incorporate a player tracking system that implemented a multi-tiered affiliate player system.

Regarding claim 11, Boushy teaches a qualified gaming activity is based on at least one of the following: the sum of all wagers placed by a player, the sum of all winnings associated with all wagers placed by a player, a configurable combination of a player's wagers and winnings, the net winnings associated with a player, and other qualified spending by a player (*see col. 9: ln 4-67*).

Regarding claim 8, Boushy teaches a method wherein the offered complimentary benefits for each level are selectable and based on a mathematical formula (*see col. 9: ln 50-col. 10: ln 18*).

Regarding claim 17, Boushy teaches a method of a player tracking system that operates in the environment of a single casino (*see CMS [234(1-4)] of Fig. 5 and the related description thereof*).

Regarding claim 18, Boushy teaches a method of a player tracking system that is extended to accommodate multiple locations of a gaming organization (*see 'patron database' [212] and 'casino management systems (CMS)[234] of Fig. 3 and the related description thereof, col. 4: ln 30-45*).

Regarding claim 19, Boushy teaches a method of a player tracking system that is extended to accommodate multiple locations of organizations affiliated with a gaming organization (*see Fig. 5 and the related description thereof*).

Regarding claim 20, Boushy teaches a method of a player tracking operating within a gaming organization which includes a casino, a race track, a dog racing track, a horse racing track, a sports betting organization, a bingo hall, and a lottery as well as a bar, a retail store, and other facilities where legalized gaming is permitted (*see 'CMS [234], LMS [238], SMS[262] of Fig. 3 and the related description thereof*).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walker (US 6,193,608 B1) – Method for Motivating Players to Return to a Casino Using Premiums.

Cumbers (US 6,142,876) – Player Tracking and Identification System.

Fertitta, III et al. (US 6,302,793 B1) – Multi-property Player Tracking System.

Roser (US 2002/0082076 A1) – Systems and Methods wherein Multiple Accounts are Associated with a Player.

Rowe et al. (US 2002/0039921 A1) – Method and Apparatus for Monitoring Player Loss in a Gaming Environment.

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

Art Unit: 3714

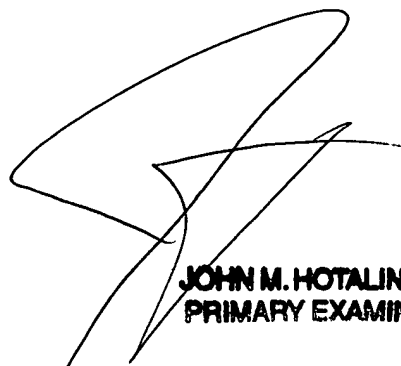
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached at (571)-272-4438.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).



RH

March 02, 2006



JOHN M. HOTALING, III
PRIMARY EXAMINER